IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 31893 of 2005(V)

PETITIONER:

P.SAYEEDA H.S.A. PHYSCIAL SCIENCE,
CALICUT GIRLS HIGH SCHOOL, CALICUT.

BY ADV. SRI.P.T.MOHANKUMAR

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY THE SECRETARY, DEPARTMENT OF GENERAL EDUCATION, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT EDUCATION OFFICER, KOZHIKODE.

3. THE MANAGER/CORRESPONDENT, CALICUT GIRLS HIGH SCHOOL, KOZHIKODE.

4. THE PRINCIPAL/HEADMISTRESS, CALICUT GIRLS HIGH SCHOOL, KOZHIKODE.

BY GOVT. PLEADER SRI. A.J. VARGHESE
ADV. SRI.P.J.MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. BASHEER, J.

W.P.(C). NO. 31893 OF 2005

Dated this the 25th day of June, 2007

J U D G M E N T

Petitioner is admittedly suffering from Rheumatic Arthritis. It appears that her physical condition is such that she has been finding it difficult to stand up for a long while and take classes. However, she has been attending to her duty.

2. The issue that has been highlighted in this writ petition is with regard to non-regularisation of the service of the petitioner with effect from June 22, 2001 to September 19, 2001. According to the petitioner, she had been attending the school during that period. However, the Headmistress did not allow her to sign the attendance register. She had filed a complaint before respondent No.2 in this regard requesting him to issue appropriate direction to the head of the institution to allow her to attend to her duty. Ext.P1 dated June 28, 2001 is stated to be the copy of the complaint submitted by the petitioner in this regard. On the next day, viz. June 29, 2001, the Headmistress issued Ext.P2 memo to the petitioner alleging that petitioner refused to sign the attendance register though she was

present in the school.

3. I do not propose to deal with the sequence of events which took place thereafter, since learned counsel limits his prayer to an appropriate direction to respondent No.2 to take a decision on Ext.P1. However, it may be pertinent to note that pursuant to the direction issued by this Court in Ext.P3 judgment the Department had found that petitioner was entitled to be kept in service in a supernumerary post. Thereafter petitioner has been discharging her duties in the school. But still, the period from June 22, 2001 to September 19, 2001, has not yet been regularised. The fate of the above period has not yet been finally decided. It is in the above circumstance that the petitioner preferred this writ petition.

4. In the counter affidavit filed by the Headmistress of the school it is admitted that petitioner is even now working in the school. According to the Headmistress, petitioner had not marked her attendance during the period mentioned above. It is admitted by the Headmistress that petitioner has got certain physical disabilities due to illness and therefore she is not able to move freely and conduct classes properly. The above aspect shows that petitioner is not guilty of dereliction of her duty. She is afflicted with a disease which

debilitates or prevents her from discharging her duties as a normal human being. Anyhow all these aspects have to be considered sympathetically by the authority concerned when the issue comes up before him.

In the above facts and circumstances, the writ petition is disposed of with a direction to respondent No.2 to take a decision on the request made by the petitioner to regularise the period of her service from June 22, 2001 to September 19, 2001. This shall be done, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. Needless to mention, petitioner and the Headmistress of the school shall be afforded sufficient opportunity to be heard before any decision is taken.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007